

Application No. 10/073,737
Amendment Dated September 26, 2003
Reply to Office Action of July 3, 2003

REMARKS/ARGUMENTS

Claims 1-20 are pending. By this Amendment, independent Claims 1, 16 and 17 are amended.

Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

Claim Rejections

Claims 1-3, 7, 8, 10-14, 16 and 17 stand rejected under 35 U.S.C. §102(b) over DeCamp et al. (U.S. Patent No. 5,792,099). Claims 9 and 15 stand rejected under 35 U.S.C. §103(a) over DeCamp et al. These rejections are respectfully traversed for at least the reasons set forth below.

The Examiner asserts that DeCamp discloses a syringe device having a reservoir 12, a cannula 24, 26 having an orifice 30, and a pressurizer 22 to move fluid from the reservoir through the orifice to an intra-ocular structure within the eye. Regarding Claims 9 and 15, the Examiner admits that DeCamp fails to disclose the fluid to be delivered as a dye, stain or indigo carmine, but asserts that it would have been obvious to deliver the claimed fluids since DeCamp's syringe device is capable of delivering a fluid into the eye. However, Applicant respectfully submits that DeCamp does not disclose a cannula having a closed distal tip for insertion into the eye, as recited in independent Claims 1, 16 and 17, and aligning the orifice over and facing the intra-ocular structure, as recited in Claim 16.

As can best be seen in Figs. 1 and 2, DeCamp discloses a cannula 24 which includes a needle 26 having a dispensing orifice 30 on a first end 32. The orifice 30 is defined by an opening at the

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first end 32 which allows fluid to be dispersed therethrough. Therefore, the first end 32 is open, as is required for the syringe 10 to work. In contrast, the claimed cannula has a closed distal tip and an orifice located inward of the distal tip. In a preferred embodiment, the tip 28 is located at the distal end of the cannula 16, and is closed. That is, the tip 28 does not have an opening for dispensing fluid. See Figs. 1-6.

Since DeCamp does not disclose a cannula having a closed distal tip, DeCamp does not anticipate the independent Claims 1, 16 and 17 of the application. Claims 2, 3, 7, 8 and 10-14 depend from Claim 1 and are therefore believed to be allowable over DeCamp for at least the reasons discussed above. Claims 9 and 15 are not taught by DeCamp, as DeCamp does not teach nor suggest a cannula having a closed distal tip, as recited in Claim 1 from which Claims 9 and 15 depend. In fact, the cannula taught in DeCamp could not include a closed distal tip, because the syringe would not work. Therefore, Claims 9 and 15 are also allowable over DeCamp.

Moreover, regarding independent Claim 16, DeCamp does not disclose the step of aligning the orifice over and facing the intra-ocular structure. As can best be seen in Fig. 2 of DeCamp, the dispensing orifice 30 of the cannula 24 does not face the intra-ocular structure. Instead, the orifice faces away from lens 72 when inserted in the cavity 68 of an eye 66. Rotating the syringe in DeCamp is not disclosed nor suggested in the reference. Even if, in hindsight, the syringe was rotated so that the orifice 30 could face the intra-ocular structure (e.g., lens 72), the syringe disclosed in DeCamp would not work for its intended purpose. The syringe would abut the patient's face or become too close to the patient's face to be handled properly. More importantly, the syringe would

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be oriented so that air in the syringe would rise to the cannula in front of the viscoelastic material
20 intended for disposal into the eye. Therefore, DeCamp does not disclose inserting the cannula
having a closed distal tip through an opening of an eye and aligning the orifice over and facing the
intra-ocular structure, as recited in Claim 16, and thus does not anticipate the claim.

In summary, DeCamp neither discloses nor teaches a cannula having closed distal tip, as
recited in the independent Claims 1, 16 and 17, and the step of aligning an orifice over and facing
an intra-ocular structure as recited in Claim 16. Claims 2, 3 and 7-15 depend from independent
Claim 1 and are allowable over DeCamp for at least the reasons discussed above. Withdrawal of
the rejections to the claims is respectfully requested.

Conclusion

For at least the reasons set forth above, it is respectfully submitted that the above-identified
application is in condition for allowance. Favorable reconsideration and prompt allowance of the
claims are respectfully requested.

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Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
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September 26, 2003

Please charge or credit our Account
No. 03-0075 as necessary to effect
entry and/or ensure consideration of
this submission.

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